

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

11 HERBERT HENDERSON,
12 Plaintiff,
13 v.
14 CALIFORNIA MEDICAL FACILITY,
15 Defendants.

11 No. 2:21-cv-0790 KJN P

ORDER

17 Plaintiff is a state prisoner, proceeding without counsel. Plaintiff did not file a request to
18 proceed in forma pauperis or pay the court's filing fee, and the undersigned recommended that
19 plaintiff's action be dismissed. Plaintiff filed objections, but they did not bear plaintiff's
20 signature. Fed. R. Civ. P. 11(a). Plaintiff subsequently filed a document purporting to add his
21 signature, and appears to request the court grant plaintiff in forma pauperis status due to the ADA
22 Act. However, in his prior objections, plaintiff claims he was able and ready to pay the court's
23 full filing fee, and provided a copy of a receipt for \$400.00 deposited into plaintiff's account at
24 CMF. (ECF No. 6 at 4.)

25 To date, the court has not received plaintiff's filing fee or a request to proceed in forma
26 pauperis. However, because plaintiff's objections contain contradictory information, the findings
27 and recommendations are vacated, and plaintiff is granted one final extension of time in which to
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1 either submit a completed application to proceed in forma pauperis, or to pay the court's filing fee
2 of \$402.00. If plaintiff chooses to apply for in forma pauperis status, he must do so on the form
3 provided, but is not required to have the certification portion completed. Once plaintiff files his
4 request to proceed in forma pauperis, the court will seek a certified copy of plaintiff's inmate trust
5 account from the CDCR.

6 If plaintiff opts to pay the court's filing fee, plaintiff must submit the appropriate form to
7 prison staff to have the funds deducted from his inmate trust account and sent to the court. This
8 court has no ability to deduct such funds directly from plaintiff's account.

9 In accordance with the above, IT IS HEREBY ORDERED that:

10 1. The appendix (ECF No. 8) bears the signature required for plaintiff's objections (ECF
11 No. 6) and is considered as if filed therewith;

12 2. The findings and recommendations (ECF No. 5) are vacated;

13 3. Plaintiff is granted thirty days from the date of this order to submit an affidavit in
14 support of his request to proceed in forma pauperis on the form provided by the Clerk of Court, or
15 the required fees in the amount of \$402.00; plaintiff's failure to comply with this order will result
16 in a recommendation that this action be dismissed; and

17 4. The Clerk of the Court is directed to send plaintiff the form for filing an application to
18 proceed in forma pauperis.

19 Dated: January 27, 2022

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KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE